

UNION PACIFIC RAILROAD AND FEDERAL TRUSTEES' NATURAL RESOURCE DAMAGE LAWSUIT

June 1998

Status of Negotiations

Background

The Wallace Branch of the Union Pacific Railroad right-of-way stretches more than 70 miles from Mullan to Plummer across the panhandle of Northern Idaho. The railroad rails and ties are constructed on ballast consisting in part of tailings from historic mining operations; the tailings contain elevated levels of lead and other heavy metals

The United States, the State of Idaho, and the Coeur d'Alene Tribe have all notified Union Pacific Railroad of claims that they intend to pursue against Union Pacific for natural resource damages and response costs under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), the Superfund law. In an attempt to settle those claims, representatives of the State of Idaho, U.S. Environmental Protection Agency, U.S. Department of Justice, U.S.

Department of Interior, U.S. Forest Service, the Coeur d'Alene Tribe, and Union Pacific Railroad are involved in settlement negotiations that address appropriate cleanup actions associated with the right-of-way and its future use.

Status

Ongoing settlement negotiations between the parties are focussed on the cleanup of the Union Pacific Railroad right-of-way, and its potential conversion to a multi-use recreational trail as a means to resolve federal, state and tribal claims against Union Pacific. The trail being considered would extend from Mullan to Plummer, and be consistent with other rail line conversions nationally. It would provide walking, running, bicycling, and other recreational opportunities throughout its length. Protective barriers, removal and/or capping of contaminated materials, where appropriate, will promote the safe usage of the right-of-way by the public. A series of

technical analyses, including an Engineering Evaluation and Cost Analysis (EE/CA), are being completed to evaluate appropriate cleanup actions being considered as part of the negotiations.

Next Steps

The parties have yet to resolve all of the issues that must be included in a settlement agreement, and it is not yet certain that the parties will be able to achieve a settlement. While the settlement discussions are complex, all parties are working hard and making steady progress. If an agreement-in-principle is reached between the negotiating parties, the next steps will be to consult with local government officials, and to host public discussion forums introducing the draft concepts that support the agreement-in-principle. Community members will be invited to comment on all aspects of the proposals, including the remedial activities proposed by the parties and the underlying analyses such as the EE/CA. If, after public input, the parties successfully negotiate a settlement agreement, the public will also be given an opportunity to comment on that agreement before it is entered by the U.S. Court. All involved parties recognize that public participation and acceptance

of a rails-to-trails conversion is necessary to the success of this settlement. The negotiating parties are striving to reach an agreement-in-principle during the summer of 1998, and will begin the public discussion process shortly thereafter.

If you wish to be notified directly of the upcoming opportunities to learn more about this project and would like to be added to the mailing list, please call or write any of the following participating parties' representatives:

Leo Hennessy, ID Dept of Parks and Recreation
P.O. Box 83720; Boise, ID 83720
(208) 334-4180, extension 228

Phillip Cernera, Coeur d' Alene Tribe
424 Sherman Street, Suite 306; Coeur d' Alene, ID 83814
(208) 667-4119

Tony Chavez,
Union Pacific Railroad/McCulley Frick & Gilman, Inc.
P.O. Box 30; Osburn, Idaho 83849
(208) 556-6811

Misha Vakoc, U.S. EPA-Community Relations
1200 6th Avenue (ECO-081); Seattle, WA 98101
(800) 424-4372, extension 8578